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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,513	09/30/2003	David L. O'Meara	243460US6YA	1655
22850	7590	06/27/2006		EXAMINER
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			COLEMAN, WILLIAM D	
			ART UNIT	PAPER NUMBER
			2823	

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Application Number	Application/Control No.	Applicant(s)/Patent under Reexamination
	10/673,513	O'MEARA ET AL.
	William D. Coleman	Art Unit 2823

Document Code - AP.PRE.DEC



## Notice of Panel Decision from Pre-Appeal Brief Review



This is in response to the Pre-Appeal Brief Request for Review filed May 15, 2006.

1.  **Improper Request** – The Request is improper and a conference will not be held for the following reason(s):

- The Notice of Appeal has not been filed concurrent with the Pre-Appeal Brief Request.
- The request does not include reasons why a review is appropriate.
- A proposed amendment is included with the Pre-Appeal Brief request.
- Other: \_\_\_\_\_

The time period for filing a response continues to run from the receipt date of the Notice of Appeal or from the mail date of the last Office communication, if no Notice of Appeal has been received.

2.  **Proceed to Board of Patent Appeals and Interferences** – A Pre-Appeal Brief conference has been held. The application remains under appeal because there is at least one actual issue for appeal. Applicant is required to submit an appeal brief in accordance with 37 CFR 41.37. The time period for filing an appeal brief will be reset to be one month from mailing this decision, or the balance of the two-month time period running from the receipt of the notice of appeal, whichever is greater. Further, the time period for filing of the appeal brief is extendible under 37 CFR 1.136 based upon the mail date of this decision or the receipt date of the notice of appeal, as applicable.

The panel has determined the status of the claim(s) is as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: 19, 23.

Claim(s) rejected: 1-18, 20-22, 24-38.

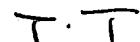
Claim(s) withdrawn from consideration: 39-56.

3.  **Allowable application** – A conference has been held. The rejection is withdrawn and a Notice of Allowance will be mailed. Prosecution on the merits remains closed. No further action is required by applicant at this time.

4.  **Reopen Prosecution** – A conference has been held. The rejection is withdrawn and a new Office action will be mailed. No further action is required by applicant at this time.

All participants:

(1) William D. Coleman 

(3) Tom Thomas 

(2) Matthew Smith 

(4) \_\_\_\_\_.

## Comments as to Pre-Appeal Panel Review

The panelist, after a review of the prior art in light of applicant's comments, decided to maintain their position in rejecting the claims under 37 CFR 103 based upon a combination of Rulkens and Fairborn in light of the following reading or clarification of a "system component".

The applicant's main argument forwarded in the comments is that Rulkens does not show "monitoring interaction of the light with the system component in order to determine a status of the system component". In essence the applicant argues that the wafer 20 is not a "system component". However, applicant's attention is drawn to the examiner's reference to element 107 as the system component or more correctly element 40, the optical port entry or window. Upon this window, material is deposited thereon and this material is monitored and compensated for using known algorithms which require the measure of the deposited film thickness on the wafer versus the deposited film thickness on the inside roughened surface of the view port 40. Thus, the interaction of the light on the view port (system component) is used to monitor the state of deposit on the view port (system component) in order to determine a status (i.e. whether compensation is required) of the View port (system component). (See Column 9, lines 11-46) For the above rationale, the rejections are maintained and a determination to proceed to the Board of Appeals on the rejections found in the Final Rejection.



MATTHEW SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800